

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
SCRANTON DIVISION**

HAROLD ALLEN,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO. _____
)	
USAA SAVINGS BANK,)	JUDGE
)	
Defendant.)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant USAA Savings Bank (“USAA SB”), gives notice of the removal of this cause of action from the Court of Common Pleas, Luzerne County, Pennsylvania, to this Court. USAA SB states as grounds for removal:

PROCEDURAL STATUS OF CASE

1. On February 28, 2017, Plaintiff commenced an action against USAA SB in the Court of Common Pleas, Luzerne County, Pennsylvania (the “**State Court**”), captioned *Harold Allen v. USAA Savings Bank*, Case No. 201702241 (the “**State Court Action**”). The Complaint in the State Court Action is attached to this Notice of Removal as “**Exhibit A.**”

2. To date, USAA SB has not been served with a copy of a summons or the Complaint.

3. USAA SB has not yet filed its Answer to the Complaint or otherwise appeared in the State Court Action.

BASIS FOR FEDERAL QUESTION JURISDICTION

4. Plaintiff's Complaint alleges a cause of action under the Telephone Consumer Protection Act, 47 U.S.C. § 227 ("TCPA"), and specifically 47 U.S.C. § 227(b)(1)(A).

5. Removal of Plaintiff's claim is proper because this Court has original federal question jurisdiction over claims alleging violations of the TCPA. 28 U.S.C. §§ 1331, 1441(a); *Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368, 386-87 (2012) ("Nothing in the text, structure, purpose, or legislative history of the TCPA calls for displacement of the federal question jurisdiction U.S. district courts ordinarily have under 28 U.S.C. §1331.")

PROPRIETY OF REMOVAL

6. Pursuant to 28 U.S.C. §1446(a), the State Court Action is properly removable to this Court because it is within this Court's district and division. Further, while USAA SB has not yet been served, all process, pleadings, and orders that have been filed in the State Court Action, specifically Plaintiff's Complaint, is attached as Exhibit A.

7. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed because it is filed within 30 days of the initial pleading setting forth the claim for relief upon which the State Court Action is based.

8. Pursuant to 28 U.S.C. §1446(d), a true and correct copy of this Notice of Removal has or will promptly be filed with the State Court, and a written notice of this removal has been served on Plaintiff. A Notice of Removal filed in the State Court Action is attached as "**Exhibit B.**"

9. USAA SB reserves all defenses, including but not limited to those under Fed. R. Civ. P. 12, and does not waive said defenses by the filing of this Notice of Removal.

WHEREFORE, USAA Savings Bank removes the above-captioned action from the Court of Common Pleas for Luzerne County, Pennsylvania to the United States District Court, Middle District of Pennsylvania.

**BENESCH, FRIEDLANDER, COPLAN &
ARONOFF LLP**

s/ Michael J. Barrie

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